

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLIAM FIGUEROA,

20-cv-3013 (JGK)

Petitioner,

MEMORANDUM OPINION AND
ORDER

- against -

KEYSER,

Respondent.

Copy mailed to pro se party(ies)
at docket address

JOHN G. KOELTL, District Judge:

The petitioner has moved for the appointment of pro bono counsel pursuant to 18 U.S.C. § 3006A. The Second Circuit Court of Appeals has instructed that a district court should only appoint pro bono counsel in cases where the indigent claimant's position is likely to have merit. See Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 173 (2d Cir. 1989); Hodge v. Police Officers, 802 F.2d 58, 61 (2d Cir. 1986). Because the petitioner's claims do not meet this threshold requirement, the petitioner's request for the appointment of pro bono counsel is **denied without prejudice**. The petitioner may renew his request after the next round of briefing in this case is complete. After examining all of the papers, the Court may determine whether the petitioner's claim warrants the appointment of pro bono counsel.


As the Court stated in its Order dated February 19, 2021, ECF No. 38 (attached to this Memorandum Opinion and Order), the conditions of the petitioner's confinement, including how his prison is dealing with the dangers of COVID-19, do not appear to

be issues that are properly addressed in this habeas corpus proceeding. Nonetheless, the respondent may respond to this and other allegations by the petitioner in the respondent's brief that is due October 22, 2021. If the conditions of the petitioner's confinement prevent him from meeting the current briefing schedule, the petitioner can seek additional time to file his reply brief.

The Court will mail a copy of this Order to the petitioner.

SO ORDERED.

**Dated: New York, New York
October 4, 2021**



**John G. Koeltl
United States District Judge**

UNITED STATES DISTRICT COURT
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JOHN G. KOELTL, District Judge:

The parties have now confirmed that the plaintiff has not yet exhausted his state court remedies. Therefore, his petition for habeas corpus will remain stayed, while he completes exhaustion of his administrative remedies.

The petitioner has sent a letter complaining about the conditions of his confinement, and more particularly how his prison is dealing with the dangers of COVID-19. These are not issues that are relevant to his pending habeas corpus proceeding or to his exhaustion of administrative remedies. The petitioner may seek relief in other proceedings related to those complaints.

SO ORDERED.

Dated: New York, New York
February 19, 2021

/s/ John G. Koeltl
John G. Koeltl
United States District Judge